

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.: 2004-0285-PST-E TCEQ ID NO.: RN101249498 CASE NO.: 13345**  
**RESPONDENT NAME: MZEE, INC. DBA KEY TRUCK STOP**

Page 1 of 2

|                                                       |                                                             |                                                                         |
|-------------------------------------------------------|-------------------------------------------------------------|-------------------------------------------------------------------------|
| <b>ORDER TYPE:</b>                                    |                                                             |                                                                         |
| <input checked="" type="checkbox"/> 1660 AGREED ORDER | <input type="checkbox"/> FINDINGS AGREED ORDER              | <input type="checkbox"/> FINDINGS ORDER FOLLOWING<br>SOAH HEARING       |
| <input type="checkbox"/> FINDINGS DEFAULT ORDER       | <input type="checkbox"/> SHUTDOWN ORDER                     | <input type="checkbox"/> IMMINENT AND SUBSTANTIAL<br>ENDANGERMENT ORDER |
| <input type="checkbox"/> AMENDED ORDER                | <input type="checkbox"/> EMERGENCY ORDER                    |                                                                         |
| <b>CASE TYPE:</b>                                     |                                                             |                                                                         |
| <input type="checkbox"/> AIR                          | <input type="checkbox"/> MULTI-MEDIA (check all that apply) | <input type="checkbox"/> INDUSTRIAL AND HAZARDOUS<br>WASTE              |
| <input type="checkbox"/> PUBLIC WATER SUPPLY          | <input checked="" type="checkbox"/> PETROLEUM STORAGE TANKS | <input type="checkbox"/> OCCUPATIONAL CERTIFICATION                     |
| <input type="checkbox"/> WATER QUALITY                | <input type="checkbox"/> SEWAGE SLUDGE                      | <input type="checkbox"/> UNDERGROUND INJECTION<br>CONTROL               |
| <input type="checkbox"/> MUNICIPAL SOLID WASTE        | <input type="checkbox"/> RADIOACTIVE WASTE                  | <input type="checkbox"/> DRY CLEANER REGISTRATION                       |

**SITE WHERE VIOLATION(S) OCCURRED:** 17124 I-10 East, Channelview, Harris County

**TYPE OF OPERATION:** Convenience store with retail sales of gasoline

**SMALL BUSINESS:** ☒ Yes ☐ No

**OTHER SIGNIFICANT MATTERS:** There are no complaints. There is no record of additional pending enforcement actions regarding this facility.

**INTERESTED PARTIES:** No one other than the ED and the Respondent has expressed an interest in this matter.

**COMMENTS RECEIVED:** The *Texas Register* comment period was expired on January 12, 2009. No comments were received.

**CONTACTS AND MAILING LIST:**

**TCEQ Attorney:** Mr. Jim Sallans, Litigation Division, MC 175, (512) 239-2053

Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019

**TCEQ Enforcement Coordinator:** Ms. Trina Grieco, Air Enforcement Section, MC R-13, (210) 403-4006

**TCEQ Regional Contact:** Ms. Nicole Bealle, Houston Regional Office, MC R-12, (713) 767-3623

**Respondent:** Mr. Mahmood Qureshi, President, MZEE, Inc. dba Key Truck Stop, 17124 I-10 East, Channelview, Texas 77530

**Respondent's Attorney:** Mr. Erich Birch, Birch, Becker and Moorman, L.L.P., 7000 North Mopac Expressway, Second Floor, Austin, Texas 78731

**VIOLATION SUMMARY CHART:**

| VIOLATION INFORMATION                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | PENALTY CONSIDERATIONS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | CORRECTIVE ACTIONS<br>TAKEN/REQUIRED                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><b>Type of Investigation:</b></p> <p><input type="checkbox"/> Complaint<br/><input checked="" type="checkbox"/> Routine<br/><input type="checkbox"/> Enforcement Follow-up<br/><input type="checkbox"/> Records Review</p> <p><b>Date of Complaint Relating to this Case:</b><br/>None</p> <p><b>Date of Investigation Relating to this Case:</b><br/>April 7, 2003</p> <p><b>Dates of NOEs Relating to this Case:</b><br/>August 20, 2003 and July 11, 2004</p> <p><b>Background Facts:</b><br/>The EDRP was filed on February 25, 2005. The Respondent filed an answer and the case was referred to SOAH. Following extensive negotiations, settlement was achieved and the Respondent signed an Agreed Order.</p> <p><b>PST:</b></p> <p>1. Failed to maintain the Stage II Vapor Recovery System in proper operating condition [30 TEX. ADMIN. CODE §§ 115.242(3) and (3)(H) and 115.245(2), and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p> <p>2. Failed to equip the product lines with an automatic line leak detector and monitor the USTs for releases at a frequency of at least once every month (no to exceed 35 days before each monitoring) and failed to conduct proper reconciliation of detailed inventory control records on a monthly basis [30 TEX. ADMIN. CODE § 334.50(b)(2)(A)(i), (b)(1)(A) and (d)(1)(B)(ii), and TEX. WATER CODE § 26.3475(a)].</p> | <p><b>Total Assessed:</b> \$5,775</p> <p><b>Total Deferred:</b> \$0<br/><input type="checkbox"/> Expedited Order<br/><input type="checkbox"/> Financial Inability to Pay<br/><input type="checkbox"/> SEP Conditional Offset</p> <p><b>Total Paid to General Revenue:</b> \$5,775</p> <p>The Respondent has paid the administrative penalty in full.</p> <p><b>Site Compliance History Classification:</b><br/><input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification:</b><br/><input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p> | <p>The Executive Director recognizes that the Respondent installed leak detectors in September 2003.</p> <p><b>Ordering Provisions:</b><br/>The Respondent shall undertake the following technical requirements:</p> <p>Within 30 days:</p> <p>a. Certify that effective inventory control and reconciliation is being performed on all USTs;</p> <p>b. Certify that all Stage II equipment and records are being maintained; and</p> <p>c. Submit all correspondence, reports, and documentation required by these Ordering Provisions.</p> |

## Compliance History

Customer/Respondent/Owner-Operator: CN602584252 MZEE, Inc. Classification: Average Rating: 4.00  
Regulated Entity: RN101249498 KEY TRUCK STOP Classification: Average Site Rating: 4.00

ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1012484  
PETROLEUM STORAGE TANK REGISTRATION 62822  
REGISTRATION

Location: 17124 I-10 EAST, CHANNELVIEW, TX, 77530

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: January 22, 2007

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: February 26, 1999 to February 26, 2004

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Trina Grieco Phone: (210) 403-4006

### Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? Yes
3. If Yes, who is the current owner? MZEE, Inc.
4. If Yes, who was/were the prior owner(s)? Syed Ghouse Mohiudoin
5. When did the change(s) in ownership occur? 2/27/2002

### Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

N/A

- B. Any criminal convictions of the state of Texas and the federal government.

N/A

- C. Chronic excessive emissions events.

N/A

- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1 03/13/2002 (268232)

2 08/25/2003 (61858)

- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 03/13/2002 (268232)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter A 334.10(b)(1)(A)

Description: Respondent failed to develop and maintain all UST records required by the provision of 30 TAC § 334. Including amended registration documents, release detection documents, overfill prevention equipment documents and financial assurance documents.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 344, SubChapter C 344.50[G]

Description: Respondent failed to test a line leak detector at least once per year for performance and operational reliability.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter A 334.8(c)(5)(C)

Description: Respondent failed to physically label all tank fill pipes to according to registration/self-certification form.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter A 334.7(d)(3)

Description: Respondent failed to provide amended registration for any change or additional information regarding USTs within 30 days for the date of the occurrence of the change or addition, or within 30 days for the date on which the owner or operator first became aware of the change or addition, as applicable.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (09/02)

PCW Revision 2/10/2004

## DATES

PCW 4-Oct-2006

Screening 1-Mar-2004

Priority Due 29-Jun-2004

EPA Due

## RESPONDENT INFORMATION

Respondent MZEE, Inc. dba Key Truck Stop

Respondent/Site ID No(s) Petroleum Storage Tank Facility ID No. 62822, Regulated Entity ID No. RN101249498

Facility/Site Region 12 - Houston

Major/Minor Source Minor

## CASE INFORMATION

Enf./Case ID No(s) CCEDS ID No. 13345

Docket No. 2004-0285-PST-E

No. Violations 2

Case Priority 3

Order Type 1660 without deferral

Enf. Coordinator Trina Grieco

EC's Team Enforcement Team 7

Media Program(s) Petroleum Storage Tank

Admin. Penalty \$ Limit Minimum \$0

Maximum \$10,000

## Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)

Subtotal 1 \$5,500

## ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

### Compliance History

5% Enhancement

Subtotals 2, 3 &amp; 7

\$275

Notes

The Respondent has received one NOV, dated March 13, 2002, with same or similar violations.

+

+

### Culpability

0% Enhancement

Subtotal 4

\$0

No

Select Yes/No

Notes

The Respondent does not meet the culpability criteria.

+

### Good Faith Effort to Comply

0% Reduction

Subtotal 5

\$0

Before NOV

NOV to EDPRP/Settlement Offer

Extraordinary

Ordinary

None of the above

X

(mark with small x)

+

Notes

The Respondent is not yet in compliance.

### Economic Benefit

0% Enhancement\*

Subtotal 6

\$0

\$1,285

Total EB Amounts

\*Capped at the Total EB \$ Amount

\$9,103

Approx. Cost of Compliance

=

## SUM OF SUBTOTALS 1-7

Final Subtotal

\$5,775

+

## OTHER FACTORS AS JUSTICE MAY REQUIRE

Adjustment

\$0

Reduces or enhances the Final Subtotal by the indicated percentage.

(enter number only; e.g. -30 for -30%)

Notes

=

Final Penalty Amount

\$5,775

## STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty

\$5,775

-

## DEFERRAL

Deferral

0%

Reduction

Adjustment

\$0

Reduces the Final Assessed Penalty by the indicated percentage.

(enter number only; e.g. 20 for 20% reduction)

Notes

No deferral because this is not an expedited case.

=

## PAYABLE PENALTY

\$5,775

**Screening Date** 1-Mar-2004 **Docket Number** 2004-0285-PST-E **PCW**  
**Respondent** MZEE, Inc. dba Key Truck Stop **Policy Revision 2 (09/02)**  
**Case ID No.** CCEDS ID No. 13345 **PCW Revision 2/10/2004**  
**Respondent/Site ID No.** Petroleum Storage Tank Facility ID No. 62822, Regulated Entity ID No. RN101249498  
**Media [Statute]** Petroleum Storage Tank  
**Enf. Coordinator** Trina Grieco  
**Site Address** 17124 I-10 East, Channelview, Texas 77530

### Compliance History Worksheet

#### >> Compliance History Site Enhancement (Subtotal 2)

| Component                     | Number of...                                                                                                                                                                                                                           | Enter Number Here | Adjust. |
|-------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------|---------|
| NOVs                          | Written NOVs with same or similar violations as those in the current enforcement action <i>(number of NOVs meeting criteria)</i>                                                                                                       | 1                 | 5%      |
|                               | Other written NOVs                                                                                                                                                                                                                     | 0                 | 0%      |
| Orders                        | Any agreed final enforcement orders containing a denial of liability <i>(number of orders meeting criteria)</i>                                                                                                                        | 0                 | 0%      |
|                               | Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission | 0                 | 0%      |
| Judgments and Consent Decrees | Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government <i>(number of judgements or consent decrees meeting criteria)</i>                                | 0                 | 0%      |
|                               | Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government                                        | 0                 | 0%      |
| Convictions                   | Any criminal convictions of this state or the federal government <i>(number of counts)</i>                                                                                                                                             | 0                 | 0%      |
| Emissions                     | Chronic excessive emissions events <i>(number of events)</i>                                                                                                                                                                           | 0                 | 0%      |
| Audits                        | Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which notices were submitted)</i>       | 0                 | 0%      |
|                               | Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which violations were disclosed)</i>                                                  | 0                 | 0%      |
| Please enter Yes or No        |                                                                                                                                                                                                                                        |                   |         |
| Other                         | Environmental management systems in place for one year or more                                                                                                                                                                         | No                | 0%      |
|                               | Voluntary on-site compliance assessments conducted by the executive director under a special assistance program                                                                                                                        | No                | 0%      |
|                               | Participation in a voluntary pollution reduction program                                                                                                                                                                               | No                | 0%      |
|                               | Early compliance with, or offer of a product that meets future state or federal government environmental requirements                                                                                                                  | No                | 0%      |

**Adjustment Percentage (Subtotal 2)** 5%

#### >> Repeat Violator (Subtotal 3)

No ☐ Select Yes/No

**Adjustment Percentage (Subtotal 3)** 0%

#### >> Compliance History Person Classification (Subtotal 7)

Average Performer ☐ Select High, Average or Poor

**Adjustment Percentage (Subtotal 7)** 0%

#### Compliance History Summary

**Compliance History Notes**  
 The Respondent has received one NOV, dated March 13, 2002, with same or similar violations.

**Total Adjustment Percentage (Subtotals 2, 3 & 7)** 5%

**Screening Date** 01-Mar-04 **Docket Number** 2004-0285-PST-E **PCW**  
**Respondent** MZEE, Inc. dba Key Truck Stop **Policy Revision 2 (09/02)**  
**Case ID No.** CCEDS ID No. 13345 **PCW Revision 2/10/2004**  
**Respondent/Site ID No.** Petroleum Storage Tank Facility ID No. 62822, Regulated Entity ID No. RN101249498  
**Media [Statute]** Petroleum Storage Tank  
**Enf. Coordinator** Trina Grieco  
**Violation Number** 1  
**Primary Rule Cite** 30 Tex. Admin Code §§ 115.242(3) and 115.242(3)(H)  
**Secondary Cite(s)** 30 Tex. Admin. Code § 115.245(2) and Tex. Health and Safety Code § 382.085(b)

**Violation Description**

The Respondent failed to maintain the Stage II vapor recovery system in proper operating condition. Specifically, the TXP-103 test (to determine for vapor recovery efficiency) on March 1, 2002 received a fail rating indicating the system was not operating properly and the system did not have a Healy vapor monitoring unit installed, as documented during an investigation conducted on April 7, 2003.

**Base Penalty** \$10,000

» **Environmental, Property and Human Health Matrix**

|    |           | Harm    |       |          |       |
|----|-----------|---------|-------|----------|-------|
|    |           | Release | Major | Moderate | Minor |
| OR | Actual    |         |       |          |       |
|    | Potential |         |       |          | x     |

**Percent** 5%

» **Programmatic Matrix**

|           |  | <b>Falsification</b> | <b>Major</b> | <b>Moderate</b> | <b>Minor</b> |
|-----------|--|----------------------|--------------|-----------------|--------------|
| <b>OR</b> |  |                      |              |                 |              |

**Percent**

**Matrix Notes**

Failure to maintain all components of the Stage II Vapor Recovery System could result in the exposure of insignificant amounts of pollutants which do not exceed levels that are protective to human health and the environment.

**Adjustment** -\$9,500

**Base Penalty Subtotal** \$500

**Violation Events**

**Number of Violation Events** 1

mark only one; use small x

|              |   |
|--------------|---|
| daily        |   |
| monthly      |   |
| quarterly    |   |
| semiannual   |   |
| annual       |   |
| single event | x |

**Violation Base Penalty** \$500

**Events Notes**

One single event is recommended.

**Economic Benefit (EB) for this violation**

**Statutory Limit Test**

**Estimated EB Amount (\$)** \$838 **Violation Final Penalty total** \$525

**This Violation Final Assessed Penalty (adjusted for limits)** \$525

## Economic Benefit Worksheet

Respondent MZEE, Inc. dba Key Truck Stop  
 ID Number(s) CCEDS ID No. 13345  
 Media [Statute] Petroleum Storage Tank  
 Violation Number 1

| Percent Interest | Years of Depreciation |
|------------------|-----------------------|
| 5.0              | 15                    |

| Item Description | Item Cost<br>No commas or \$ | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|------------------|------------------------------|---------------|------------|-----|----------------|---------------|-----------|
|------------------|------------------------------|---------------|------------|-----|----------------|---------------|-----------|

## Delayed Costs

|                          |         |            |            |     |      |       |       |
|--------------------------|---------|------------|------------|-----|------|-------|-------|
| Equipment                | \$2,800 | 7-Apr-2003 | 1-May-2007 | 4.1 | \$38 | \$759 | \$797 |
| Buildings                |         |            |            | 0.0 | \$0  | \$0   | \$0   |
| Other (As needed)        |         |            |            | 0.0 | \$0  | \$0   | \$0   |
| Engineering/construction |         |            |            | 0.0 | \$0  | \$0   | \$0   |
| Land                     |         |            |            | 0.0 | \$0  | n/a   | \$0   |
| Record Keeping System    |         |            |            | 0.0 | \$0  | n/a   | \$0   |
| Training/Sampling        |         |            |            | 0.0 | \$0  | n/a   | \$0   |
| Remediation/Disposal     |         |            |            | 0.0 | \$0  | n/a   | \$0   |
| Permit Costs             |         |            |            | 0.0 | \$0  | n/a   | \$0   |
| Other (As Needed)        | \$200   | 7-Apr-2003 | 1-May-2007 | 4.1 | \$41 | n/a   | \$41  |

Notes for DELAYED costs

Estimated cost for monitoring unit, Stage II pump box and installation. Required dates are based on the investigation date. Final dates based on the projected compliance date.

## Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

|                               |  |  |  |     |     |     |     |
|-------------------------------|--|--|--|-----|-----|-----|-----|
| Disposal                      |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| Personnel                     |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| Inspection/Reporting/Sampling |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| Supplies/equip                |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| Financial Assurance [2]       |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| ONE-TIME avoided costs [3]    |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| Other (as needed)             |  |  |  | 0.0 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs

Approx Cost of Compliance \$3,000

TOTAL

\$838



Screening Date 01-Mar-04

Docket Number 2004-0285-PST-E

PCW

Respondent MZEE, Inc. dba Key Truck Stop

Policy Revision 2 (09/02)

Case ID No. CCEDS ID No. 13345

PCW Revision 2/10/2004

Respondent/Site ID No. Petroleum Storage Tank Facility ID No. 62822, Regulated Entity ID No. RN101249498

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Trina Grieco

Violation Number 2

Primary Rule Cite Tex. Admin. Code §§ 334.50(b)(2)(A)(i), 334.50(b)(1)(A), and 334.50(d)(1)(B)(ii)

Secondary Cite(s) Tex. Water Code § 26.3475(a)

Violation Description

The Respondent failed to equip the product lines with an automatic line leak detector and monitor USTs for releases at a frequency of at least once every month (not to exceed 35 days before each monitoring) and failed to conduct proper reconciliation of detailed inventory control records on a monthly basis, as documented in an inspection conducted on April 7, 2003.

Base Penalty \$10,000

» Environmental, Property and Human Health Matrix

## Harm

| Release   | Major | Moderate | Minor |
|-----------|-------|----------|-------|
| Actual    |       |          |       |
| Potential | x     |          |       |

Percent 25%

» Programmatic Matrix

| Falsification | Major | Moderate | Minor |
|---------------|-------|----------|-------|
| OR            |       |          |       |

Percent

Matrix Notes

Failure to properly monitor the USTs and associated product lines may result in the undetected release of petroleum product which would exceed levels that are protective of human health or the environment.

Adjustment -\$7,500

Base Penalty Subtotal \$2,500

Violation Events

Number of Violation Events 2

mark only one; use small x

|              |   |
|--------------|---|
| daily        |   |
| monthly      |   |
| quarterly    | x |
| semiannual   |   |
| annual       |   |
| single event |   |

Violation Base Penalty \$5,000

Events Notes

Two quarterly events are recommended from the inspection date of April 7, 2003 to the compliance date of September 2003.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount (\$)

\$447

Violation Final Penalty total

\$5,250

This Violation Final Assessed Penalty (adjusted for limits)

\$5,250

**Economic Benefit Worksheet**

Respondent MZEE, Inc. dba Key Truck Stop  
 ID Number(s) CCEDS ID No. 13345  
 Media [Statute] Petroleum Storage Tank  
 Violation Number 2

| Percent Interest | Years of Depreciation |
|------------------|-----------------------|
| 5.0              | 15                    |

| Item Description | Item Cost<br>No commas or \$ | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|------------------|------------------------------|---------------|------------|-----|----------------|---------------|-----------|
|------------------|------------------------------|---------------|------------|-----|----------------|---------------|-----------|

**Delayed Costs**

|                          |         |            |            |     |      |     |      |
|--------------------------|---------|------------|------------|-----|------|-----|------|
| Equipment                | \$3,703 | 7-Apr-2003 | 7-Apr-2003 | 0.0 | \$0  | \$0 | \$0  |
| Buildings                |         |            |            | 0.0 | \$0  | \$0 | \$0  |
| Other (As needed)        |         |            |            | 0.0 | \$0  | \$0 | \$0  |
| Engineering/construction |         |            |            | 0.0 | \$0  | \$0 | \$0  |
| Land                     |         |            |            | 0.0 | \$0  | n/a | \$0  |
| Record Keeping System    | \$200   | 7-Apr-2003 | 7-Apr-2003 | 0.0 | \$0  | n/a | \$0  |
| Training/Sampling        |         |            |            | 0.0 | \$0  | n/a | \$0  |
| Remediation/Disposal     |         |            |            | 0.0 | \$0  | n/a | \$0  |
| Permit Costs             |         |            |            | 0.0 | \$0  | n/a | \$0  |
| Other (As Needed)        | \$1,200 | 7-Apr-2003 | 1-Sep-2003 | 0.4 | \$24 | n/a | \$24 |

Notes for DELAYED costs

Estimated cost for the equipment and installation of the line leak detectors (\$3,703), establishing and maintaining a monitoring record keeping system (\$200), and contracting with a Statistical Inventory Reconciliation vendor to monitor the UST system (\$1,200). Required dates are based on the investigation date. Final dates are based on compliance dates.

**Avoided Costs**

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

|                               |         |            |            |     |      |       |       |
|-------------------------------|---------|------------|------------|-----|------|-------|-------|
| Disposal                      |         |            |            | 0.0 | \$0  | \$0   | \$0   |
| Personnel                     | \$1,000 | 7-Apr-2003 | 1-Sep-2003 | 0.4 | \$20 | \$403 | \$423 |
| Inspection/Reporting/Sampling |         |            |            | 0.0 | \$0  | \$0   | \$0   |
| Supplies/equip                |         |            |            | 0.0 | \$0  | \$0   | \$0   |
| Financial Assurance [2]       |         |            |            | 0.0 | \$0  | \$0   | \$0   |
| ONE-TIME avoided costs [3]    |         |            |            | 0.0 | \$0  | \$0   | \$0   |
| Other (as needed)             |         |            |            | 0.0 | \$0  | \$0   | \$0   |

Notes for AVOIDED costs

Estimated cost of conducting monthly reconciliation of inventory control. Required date is based on the investigation date. Final date is based on the compliance date.

Approx Cost of Compliance **\$6,103****TOTAL \$447**

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
MZEE, INC. DBA KEY  
TRUCK STOP,  
RN101249498**

§  
§  
§  
§  
§  
§

**BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2004-0285-PST-E**

### **I. JURISDICTION AND STIPULATIONS**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding MZEE, Inc. dba Key Truck Stop ("MZEE") under the authority of TEX. WATER CODE chs. 7 and 26 and TEX. HEALTH & SAFETY CODE ch. 382. The Executive Director of the TCEQ, represented by the Litigation Division, and MZEE represented by Erich Birch of the law firm of Birch and Becker, L.L.P., appear before the Commission and together stipulate that:

1. MZEE owns and operates a convenience store with retail sales of gasoline located at 17124 I-10 East, Channelview, Harris County, Texas (the "Station").
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26, TEX. HEALTH & SAFETY CODE ch. 382 and TCEQ rules.
3. The Commission and MZEE agree that the Commission has jurisdiction to enter this Agreed Order, and that MZEE is subject to the Commission's jurisdiction.
4. MZEE received notice of the violations alleged in Section II ("Allegations") on or about August 25, 2003 and July 16, 2004.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by MZEE of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of five thousand seven hundred seventy-five dollars (\$5,775.00) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). MZEE has paid five thousand seven hundred seventy-five dollars (\$5,775.00) of the administrative penalty.
7. The Executive Director recognizes that MZEE had four new leak detectors installed and tested in September 2003.
8. Any notice and procedures which might otherwise be authorized or required in this action are waived in the interest of a more timely resolution of the matter.
9. The Executive Director of the TCEQ and MZEE have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that MZEE has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

MZEE is alleged to have violated:

1. 30 TEX. ADMIN. CODE §§ 115.242(3) and (3)(H) and 115.245(2) and TEX. HEALTH & SAFETY CODE § 382.085(b) by failing to maintain the Stage II vapor recovery system in proper condition. Specifically, the TXP-103 test (used to determine the vapor recovery efficiency) on March 1, 2002, received a fail rating indicating that the system was not operating properly and additionally, the system did not have a Healy vapor monitor unit installed as documented during an investigation on April 7, 2003.
2. 30 TEX. ADMIN. CODE §§ 334.50(b)(2)(A)(i), (b)(1)(A) and (d)(1)(B)(ii) and TEX. WATER CODE § 26.3475(a) by failing to equip the product lines with an automatic line leak detector and monitor the USTs for releases at a frequency of at least once every month (no to exceed 35 days before each monitoring) and failed to conduct proper reconciliation of detailed

inventory control records on a monthly basis, as documented during an investigation on April 7, 2003.

### III. DENIALS

MZEE generally denies each allegation in Section II ("Allegations").

### IV. ORDER

1. It is, therefore, ordered by the TCEQ that MZEE pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and MZEE's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from considering or requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: MZEE, Inc. dba Key Truck Stop, Docket No.2004-0285-PST-E" to:

Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

2. MZEE shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Agreed Order, MZEE shall:
    - i. Certify that effective inventory control and reconciliation is being performed on all USTs, in accordance with 30 TEX. ADMIN. CODE § 334.50(d)(1)(B) and 334.48(c); and
    - ii. Certify that all Stage II equipment and records are being maintained in accordance with 30 TEX. ADMIN. CODE §§ 115.241 and 115.249.
  - b. MZEE shall submit all correspondence, reports, and documentation required by these Ordering Provisions to:

Order Compliance Team  
Enforcement Division, MC 149A  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

and

Nicole Bealle, Waste Section Manager  
Texas Commission on Environmental Quality  
Houston Regional Office  
5425 Polk Avenue, Suite H  
Houston, Texas 77023

3. The provisions of this Agreed Order shall apply to and be binding upon MZEE. MZEE is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Station operations referenced in this Agreed Order.
4. If MZEE fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, MZEE's failure to comply is not a violation of this Agreed Order. MZEE shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. MZEE shall notify the Executive Director within seven days after MZEE becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by MZEE shall be made in writing to the Executive Director. Extensions are not effective until MZEE receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against MZEE in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be

transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.

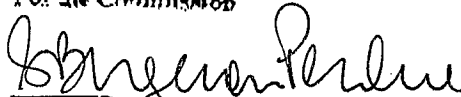
8. Under 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of the Order to MZEE, or three days after the date on which the Commission mails notice of the Order to MZEE, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

MZBE, Inc. dba Key Truck Stop  
DOCKET NO. 2004-0285-PST-E  
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## SIGNATURE PAGE

## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

11/13/08

Date

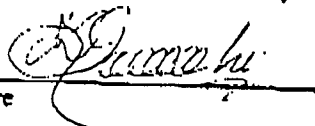
I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on my compliance history;
- Greater scrutiny of any permit applications submitted by me;
- Referral of this case to the Attorney General's office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions against me;
- Automatic referral to the Attorney General's Office of any future enforcement actions against me; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Signature



Date

11/06/08

Name (Printed or typed)

ZAFAR I. QURESHI  
Authorized representative of  
MZBE, Inc. dba Key Truck Stop

Title

V.P.